

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JESSICA ELIZABETH GARRETT,

Defendant.

CR 23–03–BU–DLC

ORDER

Before the Court is Defendant Jessica Elizabeth Garrett’s Unopposed Motion to Quash Petition for Writ of Habeas Corpus Ad Prosequendum by State of Montana. (Doc. 14.) The motion states that today, March 21, 2023, the Missoula County Attorney’s Office filed a Petition for Writ of Habeas Corpus Ad Prosequendum for Ms. Garrett, who is currently in the custody of the U.S. Marshals Service pending trial in the above-captioned matter. (*Id.* at 2.) The motion argues—and this Court agrees—that this Court has repeatedly held that a state does not have jurisdiction to issue a writ of habeas corpus for the release of a person held under the authority of the United States. (*Id.* at 3–4.) In this case, the writ has been requested but has not yet been issued, but Ms. Garrett requests that the Court quash the petition, declare the petition and any resulting writ null and

void, enjoin the Fourth Judicial District Court and Missoula County Attorneys' Office from executing any writ of habeas corpus ad Prosequendum which may be issued by the State in response to the petition. (*Id.* at 4–5.) The United States does not oppose the motion.

Accordingly, IT IS ORDERED that the motion (Doc. 14) is GRANTED. The petition filed with the Montana Fourth Judicial District Court on March 21, 2023 (Doc. 14-1), and any Writ of Habeas Corpus Ad Prosequendum issued in response to the petition issued while Ms. Garrett is in federal custody, is declared null and void.

IT IS FURTHER ORDERED that the state actors, including the Fourth Judicial District Court and the Missoula County Attorneys' Office are ENJOINED from executing any Writ of Habeas Corpus Ad Prosequendum issued in response to the petition filed with the Fourth Judicial District Court on March 21, 2023 (Doc. 14-1) while Ms. Garrett is in federal custody.

DATED this 21st day of March, 2023.



Dana L. Christensen, District Judge
United States District Court